

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

APR 15 2010
JAMES N. MATTHEW, Clerk
BUREAU OF THE U.S. DISTRICT COURT
-JEC

KENNETH W. ROBINSON

:

Plaintiff

:

v.

:

NCO FINANCIAL SYSTEMS, INC.

:

Defendant

:

CIVIL ACTION

FILE NO. 1 10 · CV - 1115

COMPLAINT FOR DAMAGES

INTRODUCTION

This is an action for damages against the defendant for violation of the Fair Debt Collection Practices Act (“FDCPA”).

SUBJECT MATTER JURISDICTION

Subject matter jurisdiction in this Court is proper pursuant to 15 U.S.C. § 1692k (d) and 28 U.S.C. § 1337 (federal question jurisdiction).

This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1337 to hear and decide any related state law issues.

PARTIES AND PERSONAL JURISDICTION

Plaintiff is authorized by law to bring this action.

Defendant, NCO FINANCIAL SYSTEMS, INC., is a corporation organized under the laws of the State of Louisiana. (hereinafter said defendant is referred to as “NCO”).

NCO is subject to the jurisdiction and venue of this Court.

NCO may be served by personal service upon its registered agent, to wit: **CT Corporation System, 1201 Peachtree Street, NE, Atlanta, Fulton County, Georgia.**

Alternatively, NCO may be served by personal service upon its *Chief Executive Officer*, *Michael J. Barrist at 507 Prudential Road, Horsham, PA 19044*.

FACTS

1. The purpose of NCO's business is the collection of debts.
2. NCO regularly collects or attempts to collect debts owed or due or asserted to be owed or due another.
3. NCO is a debt collector subject to the provision of the Fair Debt Collection Practices Act.
4. In the course of attempting to collect a debt allegedly due from Plaintiff to a business or institution or governmental agency not a party to this litigation, NCO communicated with Plaintiff regarding a consumer debt incurred outside the State of Georgia.
5. On or about February 2010 began a campaign of collections and harassing phone calls to Plaintiff's place of employment and cell/home phone number.
6. On or about March 30, 2010, NCO mailed its first collection letter to Plaintiff. (*See Exhibit A, attached hereto*).
7. NCO continues to make harassing phone calls to Plaintiff's place of employment and cell/home phone number.
8. NCO has failed to verify the debt allegedly owed by Plaintiff.
9. NCO has failed to obtain and provide Plaintiff with a copy of any judgment.
10. On or about April 9, 2010, Plaintiff mailed NCO a registered certified letter disputing the validating of this debt within the 30-day period. (*See Exhibit B, attached hereto*)
11. To date of this filing, NCO continues to make harassing phone calls to Plaintiff's place of employment and cell/home phone number.

12. NCO's continual communications violate the Fair Debt Collection Practices Act.

CAUSE OF ACTION

13. Defendant NCO violations of the FDCPA include, but are not limited to, the following:

a. Engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d & d(2);

b. The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law, in violation of 15 U.S.C. § 1692f(1); and

c. Failure to effectively provide the information required by 15 U.S.C. § 1692g by virtue of format and contradictory language.

14. As a result of Defendant NCO's actions, the plaintiff is entitled to an award of statutory and actual damages, as well as an award of costs and attorney fees.

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant NCO Financial Systems, Inc. and in favor of Plaintiff, as follows:

a. That Plaintiff be awarded statutory and actual damages not less than Two Millions Dollars (\$2,000,000.00);

b. That Plaintiff be awarded the expense of litigation including a reasonable attorney fee;

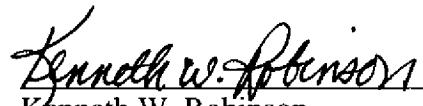
c. That the Court declares each and every defense raised by Defendant to be insufficient;

d. That Defendant be ordered to remove any and all negative inquires and/or

information placed on the three (3) major credit reporting agencies pertaining to Plaintiff;

- e. That Defendant be ordered to cease and desist any further collection methods, including wage garnishment against Plaintiff; and
- f. That the Court grants such further and additional relief as is just in the circumstances.

Respectfully submitted,



Kenneth W. Robinson
Acct. No. xxx-xx-1113

Proper Mailing Address:
2778 Cumberland Blvd., SE
#175
Smyrna, Georgia 30080
(404) 626-1045

DO NOT SEND CASH
MAKE CHECKS PAYABLE TO:
U.S. DEPARTMENT OF EDUCATION
SHOW YOUR SOCIAL SECURITY NUMBER
ON YOUR CHECK

ACCOUNT NO.	PRINCIPAL BAL.	INTEREST	
253021113	\$ 4266.19	\$ 2760.79	
PENALTY CHARGES		FEES & COSTS	TOTAL BALANCE
\$ 1710.37	\$ 0.00		\$ 8,737.35
AMOUNT PAID:			

RETURN THIS PORTION WITH YOUR PAYMENT

NOTE NAME/ADDRESS/PHONE NO. CHANGES ON BACK



Personal & Confidential



0425-2631

KENNETH W ROBINSON
2778 CUMBERLAND BLVD SE
SE 175
SMYRNA GA 30080-3048

SEND PAYMENT TO:

NATIONAL PAYMENT CENTER
US DEPARTMENT OF EDUCATION
P.O. BOX 105028
ATLANTA, GA 30348-5028

4 322530211133 0000004950 00000587

4 322530211133 0003312010 08737353

DATE: March 30, 2010

This notice regarding your account with the U.S. Department of Education (ED) is from NCO Financial Systems, Inc. The U.S. Department of Education has placed your account with this agency for collection.

We are writing you in reference to your debt owed ED. Steps must be taken to resolve this indebtedness. Under federal regulations governing your debt, your defaulted status has been reported to a credit bureau by ED.

Unless you notify this office within thirty days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor. Federal law prohibits unfair collection practices. Formal complaints against this agency may be lodged with the U.S. Department of Education, Atlanta Service Center, Contract Services Branch, Atlanta Federal Center Tower, 61 Forsyth Street SW, Room 19T89, Atlanta GA 30303.

When sending a written dispute, mail it to:
NCO FINANCIAL SYSTEMS, INC.
PO BOX 4929
TRENTON, NJ 08650-4929

You may contact NCO Financial Systems, Inc. at 888-475-6741 toll free. Our office hours are Monday through Thursday 8am to 9pm, Friday 8am to 5pm, Saturday 8am to 12 noon. All times Eastern. Calls to or from NCO Financial Systems, Inc. may be monitored or recorded for quality assurance.

Payments are to be sent to the address provided below:

U.S. DEPARTMENT OF EDUCATION
NATIONAL PAYMENT CENTER
P.O. BOX 105028
ATLANTA, GA 30348-5028

Be sure to include your Social Security Number on the face of the payment instrument.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This is a communication from a debt collector.

You may also make payment by credit card. Your registration code is 18.4487657.23360505.982.

U.S. DEPT OF EDUCATION FY200961 FORSYTH ST SW RM 19T89ATLANTA, GA 30303

Your account balance may be periodically increased due to the addition of accrued interest or other charges as provided in your agreement with the original creditor or as otherwise provided by federal law.

EXHIBIT

NCO FINANCIAL SYSTEMS, INC.
507 Prudential Road
Horsham, PA 19044

A

KENNETH W. ROBINSON

2778 Cumberland Blvd., SE
Apt. #175
Smyrna, GA 30080

Friday, April 9, 2010

NCO Financial Systems, Inc.
P.O. Box 4929
Trenton, NJ 08650-4929

Certified Mail:
7006-0810-0003-9745-1678

Re: Student Loan(s)
Acct.: 253021113
Alleged Balance: \$8,737.35

LETTER OF DISPUTE

Dear Sir/Madam:

I am in receipt of your letter dated March 30, 2010 in which you, NCO Financial Systems, Inc., allege I am indebted to U.S. Department of Education in the total amount referenced above.

Please be advised. This letter will stand as my Official Letter of Dispute in which I dispute the validity of this debt and/or any portion thereof. Further, please be advised that this dispute is being forwarded to your office within the 30-day period in which to file an official letter of dispute and to prevent any future collection and/or harassing collecting methods.

Any and all payments regarding past due student loan accounts will and shall be paid directly to the U.S. Department of Education Atlanta Service Center through an already agreed payment plan.

Furthermore, please do not attempt any further collection activities regarding this student loan as I will deal directly with the U.S. Department of Education (Atlanta Service Center). Please note that if there is any further collection activities from NCO Financial Systems, Inc. regarding this student loan accounts shall be dealt with through the proper court action filed with the Northern District of Georgia (Atlanta Division).

Finally, it is my sincere hope and trust that NCO Financial Systems, Inc. has not made the mistake of placing any negative and/or derogatory information on my personal credit reports regarding this allege and unsubstantiated debt.

I am

Very truly,

/s/Kenneth W. Robinson
Kenneth W. Robinson

Enclosure:
Your Letter Dated March 30, 2010

EXHIBIT

B